



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,245	10/11/2000	David Wayne Kelleher	G&C 139.142-US-U1	7831
22462	7590	03/06/2007		
GATES & COOPER LLP HOWARD HUGHES CENTER 6701 CENTER DRIVE WEST, SUITE 1050 LOS ANGELES, CA 90045			EXAMINER IQBAL, KHAWAR	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 03/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/689,245	<b>Applicant(s)</b> KELLEHER, DAVID WAYNE	
	<b>Examiner</b> Khawar Iqbal	<b>Art Unit</b> 2617	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 30 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 03 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1,3-11,13,15,17,19-25,27,29,31,33-39,41,43,45,47,49,51,53 and 61-66.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

  
 GEORGE ENG  
 SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 01-30-07 have been fully considered but they are not persuasive. The examiner has thoroughly reviewed applicant's arguments but firmly believes that the cited references reasonably and properly meet the claimed limitations. In regard to applicant's arguments against Adamany et al and Aravamudan et al, Adamany et al teaches, user as roamer turns on a cellular phone 20, registration messages are transmitted from the roamer cellular phone 20, roamer cellular phone 20 send a registration notification message containing the roamer cellular phone's 20 MIN and ESN (see table 1) to register for the MSC- V 24 (visited system 14) to international gateway 10 to MSC-H 18 (home system). MSC-H 18 checks out the new message with respect to the roamer cellular phone 20 by checking whether the roamer cellular phone 20 is valid. If the roamer cellular phone 20 is invalid (deactivated a feature), the MSC-H 18 creates a response to the new message including a denial of roaming. On the other hand, if the roamer cellular phone 20 is valid, the MSC-H 18 creates a response to the new message including allowance (calling features)(activated a feature) of roaming. Generally, the response includes the point code of the MSC-H 18 as the originating point code and the point code of the international gateway 10 as the destination point code. The response generally is a Registration Notification Return message. Aravamudan et al teaches the home cellular network receiving the telemetry message, storing information regarding the first cellular phone in an instant messaging database, wherein the information comprises a list and transmitting a browser alert to one or more relevant buddies identified in the buddy list. Aravamudan et al also discloses using features and capabilities associated with instant messaging to locate a registered user, query the user for a proposed message disposition, and coordinate services among a plurality of communication devices, modes, and channels. A user proxy is registered to the user as a personal communication services platform. The user is able to define various rules for responding to received data and communications. The rules are stored within a rules database servicing the communication services platform. Instant messaging is used for communications between the user and the communication services platform's user proxy (col. 5, line 1-30, col. 7 lines 1-40, col. 8, lines 35-45, col. 8, line 60-col. 9, line 25, col. 10, lines 1-15). The applicant argues on page 15, lines 7-20 that "Applicant traverses the above rejections for one or more of the following reasons: (1) Neither Adamany nor Aravamudan teach, disclose or suggest using a remote feature activation message to initiate or utilize an instant messaging system, or as part of an instant messaging system; (2) Neither Adamany nor Aravamudan teach, disclose or suggest a remote feature activation message sent by a cellular phone that is interpreted by a cellular network as a roaming phone desiring to activate/deactivate a feature, which is used to store information utilized in an instant messaging application; ." Examiner agrees with this argument. However, the applicant didn't claim..